

Assembly Bill No. 2430

CHAPTER 881

An act to amend and repeal Sections 5500 and 5501 of, and to add and repeal Section 5513 of, the Public Utilities Code, relating to commercial air carriers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2004. Filed
with Secretary of State September 29, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2430, Wiggins. Commercial air carriers: hot air balloons.

(1) Existing law requires the Public Utilities Commission to require every commercial air operator, as defined, to procure, and continue in effect, adequate protection against liability for personal bodily injuries and property damage as a result of an accident, that may be imposed by law upon the operator and upon any person using, operating, or renting an aircraft, as defined, with the permission of the operator.

This bill would, until January 1, 2009, exclude from the definition of commercial air operator a person furnishing or providing transportation by hot air balloon for entertainment or recreational purposes. The bill would, until January 1, 2009, exclude from the definition of aircraft a hot air balloon furnished or providing transportation for entertainment or recreational purposes.

The bill, notwithstanding those provisions, would, until January 1, 2009, require that any person providing transportation by hot air balloon for hire, for entertainment or recreational purposes, maintain in force at least \$1,000,000 of liability insurance for personal injury, wrongful death, and property damage resulting from the operation of a balloon, with additional liability coverage of \$100,000 for each passenger for any balloon carrying more than 10 passengers. The bill would, until January 1, 2009, require that a notice be provided to every passenger that identifies both the insurer providing a policy of liability insurance to the person providing that transportation and the amount of insurance coverage provided by that policy.

The bill would, until January 1, 2009, require that any person providing transportation by hot air balloon for hire, for entertainment or recreational purposes, comply with any requirement of a city, county, or city and county (local government) that the person obtain a business license as a condition for operating in the jurisdiction of the local government and to prominently display the license at the person's

primary place of business frequented by customers and potential customers. Whenever a local government requires a business license, any person providing transportation by hot air balloon for hire, for entertainment or recreational purposes, would, until January 1, 2009, be required to provide to the local government a currently effective certificate of insurance evidencing insurance coverage, at least annually or whenever there is a material change in insurance coverage. This bill would impose a state-mandated local program by requiring local governments, until January 1, 2009, to give reasonable notice of this requirement with any business license renewal notification and to maintain as a public record every business license issued by the local government to any person providing transportation by hot air balloon for hire, for entertainment or recreational purposes, and every currently effective certificate of insurance evidencing the insurance coverage required by the bill. A local government would, until January 1, 2009, be authorized to charge a reasonable fee for purposes of carrying out these provisions.

The bill would also impose a state-mandated local program by making it a misdemeanor to fail to obtain and maintain a current valid local business license as required by the bill or to fail to maintain insurance in force as required by the bill.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

(3) The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 5500 of the Public Utilities Code is amended to read:

5500. (a) As used in this article, “commercial air operator” means any person owning, controlling, operating, renting, or managing aircraft for any commercial purpose for compensation. “Commercial air operator” does not include any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for entertainment or recreational purposes.

(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.



SEC. 1.5. Section 5500 of the Public Utilities Code is amended to read:

5500. (a) As used in this article, “commercial air operator” means any person owning, controlling, operating, renting, or managing aircraft for any commercial purpose for compensation.

(b) This section shall become operative on January 1, 2009.

SEC. 2. Section 5501 of the Public Utilities Code is amended to read:

5501. (a) As used in this article, “aircraft” means any contrivance used for navigation of, or flight in, the air. “Aircraft” does not include a hot air balloon furnished or providing transportation for entertainment or recreational purposes.

(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 2.5. Section 5501 of the Public Utilities Code is amended to read:

5501. (a) As used in this article, “aircraft” means any contrivance used for navigation of, or flight in, the air.

(b) This section shall become operative on January 1, 2009.

SEC. 3. Section 5513 is added to the Public Utilities Code, to read:

5513. (a) Notwithstanding any other provision of this article, any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire, for entertainment or recreational purposes, shall maintain in force at least one million dollars (\$1,000,000) of liability insurance for personal injury, wrongful death, and property damage resulting from the operation of a balloon carrying up to 10 passengers, with additional liability coverage of one hundred thousand dollars (\$100,000) for each passenger for any balloon carrying more than 10 passengers. A notice shall be provided to every passenger that identifies both the insurer providing a policy of liability insurance to the person providing that transportation and the amount of insurance coverage provided by that policy.

(b) Any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire, for entertainment or recreational purposes, shall comply with any requirement of a city, county, or city and county that the person obtain a business license as a condition for operating in that city, county, or city and county. Whenever a city, county, or city and county requires a business license, any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire, for entertainment or recreational purposes, shall



prominently display the license at the person's primary place of business frequented by customers and potential customers. Whenever a city, county, or city and county requires a business license, the person shall provide to the city, county, or city and county, a currently effective certificate of insurance evidencing insurance coverage as required in subdivision (a). A new certificate of insurance shall be provided to the city, county, or city and county, at least annually or whenever there is a material change in insurance coverage. A city, county, or city and county shall give reasonable notice of this requirement with any business license renewal notification. Every business license issued by a city, county, or city and county to any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire, for entertainment or recreational purposes, and every currently effective certificate of insurance evidencing insurance coverage, shall be maintained as a public record. The city, county, or city and county may charge a reasonable fee for purposes of carrying out the provisions of this subdivision.

(c) Any person who violates subdivision (a) by failing to maintain insurance in force as required by subdivision (a) is guilty of a misdemeanor. Any person who violates subdivision (b) by failing to obtain and maintain a current valid city, county, or city and county business license issued by the local government jurisdiction where the person's primary place of business is located, in accordance with subdivision (b), is guilty of a misdemeanor.

(d) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code. Moreover, reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of



Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Public Utilities Commission currently requires the hot air balloon industry in this state to obtain liability insurance equivalent to that required for commercial airlines. Hot air balloon companies cannot get the required insurance due to spiraling insurance costs and a dwindling number of insurers. In order to allow hot air balloon companies to seek more reasonable liability insurance appropriate to the industry, and thereby making it possible for those companies to stay in business, it is necessary that this act take effect immediately.

